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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/517,782	03/02/2000	Oliver Paul Leisten	20676-724	4570

7590 10/07/2002

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1221 South Mopac Expressway  
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[REDACTED] EXAMINER

KIM, PAUL D

ART UNIT	PAPER NUMBER
3729	

DATE MAILED: 10/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

S.M.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/517,782	LEISTEN ET AL.
<b>Examiner</b>	<b>Art Unit</b>	
Paul D Kim	3729	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 August 2002.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13 and 20-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 5-9 and 20-27 is/are allowed.
- 6) Claim(s) 1 and 28 is/are rejected.
- 7) Claim(s) 2-4 and 10-13 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                               | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

1. This office action is a response to the amendment filed on 8/5/2002.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 28 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitation "a track portion or portions" in line 2 renders vague and indefinite. It is unclear whether the track portion or portions on an end surface is the same track portion or portions located on the flat surface recited in claim 3, line 4.

The limitation "the cylinder axis" in lines 2-3 lacks antecedence basis.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application

being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Filipovic (US PAT. 5,990,847).

Filipovic teaches a method of making a coupled multi-segment helical antenna comprising steps of tuning the frequencies of the antenna by trimming the length of the radiator segments. (Col. 1, line 22 to col. 2, line 40 and col. 4, lines 52-59).

Inherently, the tuning process by etching the length of the radiator segments of Filipovic can be performed increasing the inductance as claimed invention.

#### *Response to Arguments*

6. Applicant's arguments filed 8/5/2002 have been fully considered but they are not persuasive. Applicant argues that the prior art of record fails to disclose the claimed invention such as removing conductive material from at least one of a plurality of radiating tracks to increase the inductance of the track. Examiner traverses the argument. According to the tuning process of Filipovic, the length of the radiator tracks is etched for tuning the frequency of the antenna. Even though Filipovic does not disclose either increasing or decreasing inductance from the etching process, why not the tuning process of Filipovic increases the inductance as long as Filipovic meets the claimed invention such as removing the conductive material from the radiating tracks to adjust the frequency.

It is to be expected that a small change in physical attributes would be an unpatentable modification. Under some circumstance, a small change in physical attributes may impact patentability to a process if particular ranges claimed produce a new and unexpected result, which is different in kind, and not merely in degree from the result of the prior art. Such ranges are termed “critical” ranges, and the applicant has the burden of proving such criticality. However, even though applicant’s modification results in great improvement and utility over the prior art, it may still not be patentable if the modification was within the capabilities of one skilled in the art. More particularly, where the general conditions of claims are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation.

Upon further review, examiner agrees with the applicant that the limitation of claims 10 and 11 are originally filed thereby withdraw the 112, 1<sup>st</sup> rejections of claims 10-11. Also, applicant overcomes the 112 2<sup>nd</sup> rejections for vague and indefinite of claims 10-11 and 25-26. Examiner withdraws the 112 2<sup>nd</sup> rejections for claims 10-11 and 25-26.

#### ***Allowable Subject Matter***

7. Claims 2-4 and 10-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. Claims 5-9 and 20-27 are allowed.

9. Claim 28 is would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul D Kim whose telephone number is 703-308-8356. The examiner can normally be reached on Monday-Friday between 6:00 AM to 2:00 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 703-308-1789. The fax phone numbers for the

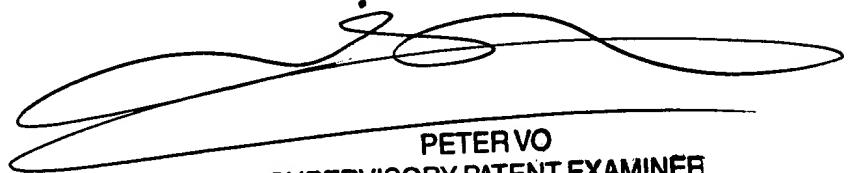
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organization where this application or proceeding is assigned are 703-305-9835 for regular communications and 703-305-9835 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5648.

pdk  
October 3, 2002



PETER VO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700